

BEFORE THE INDIANA STATE DEPARTMENT OF HEALTH

**AN ADMINISTRATIVE RULES HEARING
LSA DOCUMENT #08-318**

HEARING OFFICER REPORT

This matter came before the duly appointed Hearing Officer, Kelly MacKinnon, on the 3rd day of February, 2009, at 10:00 a.m., at the Indiana State Department of Health (ISDH), 2 North Meridian Street, Indianapolis, Indiana.

Notice of time and place of the hearing was given as provided by law by publishing on January 6, 2009, in the *Indianapolis Star* and by publishing in the *Indiana Register* dated December 31, 2009. Proof of publication of this notice has been received by the ISDH and the notice and proof are hereby incorporated into the record of this cause by reference and placed in the official files of the ISDH.

ORAL STATEMENT

There were no oral statements.

WRITTEN STATEMENT


Janet G. McCabe
Executive Director
Improving Kids' Environment, Inc.

Ms. McCabe recommended that a sentence in 410 IAC 29-1-6(2)(E) ("A clearance examination shall be conducted to establish the efficacy of remediation.") be removed, replacing it with a reference to 410 IAC 29-4-2. If the sentence is not removed, she recommended that it be edited to clarify that the property owner is responsible in that sentence. Additionally, she recommended some wording changes to avoid the use of passive voice and for clarification. Ms. McCabe's comments are attached and incorporated by reference as Exhibit 1.

There were no oral statements. One written statement was submitted.

No one appeared to testify at the public hearing and one written comments was received. The record was left open until February 3, 2009. No comments were submitted during that time period.

Dated at Indianapolis, Indiana this 4th day of February, 2009.



Kelly MacKinnon
Hearing Officer

Improving Kids' Environment



3951 Meridian St, Ste 160
Indianapolis, IN 46208-4062
www.ikecoalition.org
Fax: 866-234-8505
317-902-3610
mccabe@ikecoalition.org

To: Indiana State Department of Health
2 N. Meridian St.
Indianapolis, IN 46204

Re: Comments of Improving Kids' Environment, Inc. on Proposed Rule LSA Doc. #08-318;
Lead Poisoning Prevention

Thank you for the opportunity to present these comments today. Improving Kids' Environment, Inc. (IKE) is a not for profit organization based in Central Indiana that seeks to reduce environmental threats to children's health, including lead hazards.

IKE supports these rule amendments and applauds ISDH for moving forward with them promptly. They provide clarity to local health departments and implement important child health protections adopted by the Indiana General Assembly in 2008 (Senate Enrolled Act 143). We have a very few specific suggestions, detailed below:

410 IAC 29-1-6(2)(E)

The last sentence of this subsection states "A clearance examination shall be conducted to establish the efficacy of remediation." Because the sentence uses passive voice, it is not clear which party (the local health department, the property owner, or someone else) is responsible for conducting the clearance exam. A later section spell this out (410 IAC 29-4-2), so we would recommend either removing the quoted sentence and making an internal reference to § 29-4-2 or editing the sentence to clarify that the property owner is the responsible party.

410 IAC 29-4-2

We suggest the following wording changes to avoid the passive voice and clarify the meaning in the first sentence:

"If a risk assessment identifies lead hazards, the local health department must provide a complete standard risk assessment report identifying the component location and required remediation options for each lead hazard ~~must be provided~~ to the property owner no later than five (5) business days from the receipt of verification by sample analysis of the lead hazards...."

And the following changes in subsection (1) to establish a deadline within which a property owner must submit a proposed remediation schedule to the local health department:

"(1) Develop a reasonable written schedule prioritizing the work based on the recommendations of the risk assessment and the local health department within thirty (30) days."

IKE Board of Directors Richard van Frank (*President*), Dr. Bill Beranek (*Vice President*), Dr. Jack Leonard (*Treasurer*), Dr. Indra Frank (*Secretary*), Sen. Beverly Gard, Dr. John Ellis, Kim Irwin, Dr. Steve Jay, Dr. Marc Lame, Kathy Watson.

IKE urges ISDH to finalize these amendments as quickly as possible, and provide information and training to the local health departments as appropriate so they can implement them effectively. IKE would be glad to assist with this effort, if we can be useful.

Respectfully submitted,



Janet G. McCabe
Executive Director
Improving Kids' Environment, Inc.